



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,475	10/10/2001	Ryuichi Morishita	6235-59221	4309

24197                      7590                      05/31/2002

KLARQUIST SPARKMAN, LLP  
121 SW SALMON STREET  
SUITE 1600  
PORTLAND, OR 97204

EXAMINER

WHITEMAN, BRIAN A

ART UNIT                      PAPER NUMBER

1635

DATE MAILED: 05/31/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.



Art Unit: 1635

### DETAILED ACTION

Claims 1-21 are pending

#### *Election/Restrictions*

A telephone call was made to Dr. William Noonan on 5/28/02 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- (a) diabetic lower limb ischemic disease,
- (b) diabetic ischemic neuropathy; and
- (c) diabetic ischemic myocardial infarction.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the

Art Unit: 1635

limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Claims 1, 3, 4, 9, 11, 12, 17, 18, 19 and claims dependent therefrom correspond to the species of (a).

Claims 1, 3, 9, 11, 17, 18, and claims dependent therefrom correspond to the species of (b).

Claims 1, 3, 9, 11, 17, 18 and claims dependent therefrom correspond to the species of (c).

The following claim(s) are generic: claims 1, 9, and 17.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the species of (a)-(c) are different structurally and/or functionally with regard to their site of action, and the PCR Rules for Lack of Unity do not apply.

It would be unduly burdensome for the examiner to search and consider patentability of all of the presently pending claims, a restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

Art Unit: 1635

application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 § 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kay Pinkney whose telephone number is (703) 305-3553.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Whiteman whose telephone number is (703) 305-0775.

The examiner can normally be reached on Monday through Friday from 8:00 to 5:00 (Eastern Standard Time), with alternating Fridays off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's mentor, primary examiner, Dave Nguyen can be reached at (703) 305-2024.

If attempts to reach the primary examiner by telephone are unsuccessful, the examiner's supervisor, John L. LeGuyader, SPE - Art Unit 1635, can be reached at (703) 308-0447.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Brian Whiteman  
1635  
5/29/02

  
DAVE T. NGUYEN  
PRIMARY EXAMINER